

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

Marc M. Seltzer (54534)
Steven G. Sklaver (237612)
Oleg Elkhunovich (269238)
Meng Xi (280099)
SUSMAN GODFREY L.L.P.
1900 Avenue of the Stars, Suite 1400
Los Angeles, CA 90067-6029
Telephone: (310) 789-3100
Facsimile: (310) 789-3150
mseltzer@susmangodfrey.com
ssklaver@susmangodfrey.com
oelkhunovich@susmangodfrey.com
mxi@susmangodfrey.com

P. Ryan Burningham (*pro hac vice*)
SUSMAN GODFREY L.L.P.
1201 Third Avenue, Suite 3800
Seattle, WA 98101
Telephone: (206) 516-3880
Facsimile: (206) 516-3883
rburningham@susmangodfrey.com

James Q. Taylor-Copeland (284743)
TAYLOR-COPELAND LAW
501 W. Broadway, Suite 800
San Diego, CA 92101
james@taylorcopelandlaw.com
Telephone: (619) 400-4944
Facsimile: (619) 566-4341

Counsel for Lead Plaintiff Bradley Sostack

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

In re RIPPLE LABS, INC. LITIGATION

Case No. 4:18-cv-06753-PJH

DISCOVERY MATTER

This Document Relates to:

All Actions

**DECLARATION OF P. RYAN
BURNINGHAM IN SUPPORT OF LEAD
PLAINTIFF'S MOTION TO COMPEL
PRODUCTION OF DOCUMENTS AND
PRIVILEGE LOG**

DATE: March 25, 2021
TIME: 1:30 pm
PLACE: Courtroom 3, Oakland

1 I, Ryan Burningham, hereby declare as follows:

2 1. I am an attorney in the law firm of Susman Godfrey, LLP. I am counsel for Lead
3 Plaintiff Bradley Sostack. I am admitted *pro hac vice* to practice before this Court, and I have
4 personal knowledge of the matters set forth herein. If called as a witness, I could and would testify
5 competently thereto.

6 2. I make this declaration in support of Lead Plaintiff's Motion to Compel Production
7 of Documents and Privilege Log.

8 3. Attached to this declaration as **Exhibit 1** is a true and correct copy of Lead Plaintiff's
9 First Set of Requests for the Production of Documents, dated October 8, 2020.

10 4. Attached to this declaration as **Exhibit 2** is a true and correct copy of Defendants'
11 Responses to Lead Plaintiff's Request for Production of Documents, Set One, dated December 9,
12 2020.

13 5. In meet-and-confer discussions between myself and counsel for Defendants that
14 occurred after Defendants responded to Plaintiff's first set of RFPs, counsel for Defendants
15 explained that, in response to RFP No. 3, Defendants are withholding "informal" correspondence
16 with the SEC, which they defined as "correspondence not on letterhead," and documents reflecting
17 settlement discussions with the SEC. Counsel for Defendants contended that both categories of
18 documents are irrelevant.

19 6. In meet-and-confer discussions between myself and counsel for Defendants on
20 December 18, 2020, and on January 15, 2021, counsel for Defendants explained that, in response
21 to RFP No. 24, Defendants are withholding documents showing their document-retention policies.
22 Counsel for Defendants contended that the policies are irrelevant absent evidence of spoliation.

23 7. On December 16, 2020, Defendants produced documents numbered
24 RPLI_00000001-301743.

25 8. On January 11, 2020, Defendants produced documents numbered RPLI_00301744-
26 302072.

27 9. Within the productions identified in ¶¶ 7-8 above are 540 documents marked
28 "Withheld for Privilege."

1 10. Attached to this declaration as **Exhibit 3** is a true and correct copy of a document
2 numbered RPLI_00004564 and marked “Withheld for Privilege.”

3 11. Within the productions identified in ¶¶ 7–8 above are over a thousand documents
4 that have been redacted.

5 12. Attached to this declaration as **Exhibit 4** is a true and correct copy of an email chain
6 among Ripple employees numbered RPLI_00041073. The email has seven unexplained redactions
7 that appear to be based on a privilege claim.

8 13. Attached to this declaration as **Exhibit 5** is a true and correct copy of a document
9 numbered RPLI_00301745 and titled [REDACTED]

10 The document appears to redact [REDACTED]
11 [REDACTED] on pages 1 and 4. The document also appears to redact [REDACTED]
12 [REDACTED] on page 4. Some redactions are labeled “Redacted.”
13 Others are blacked out. None are explained. The document has been labeled “Highly Confidential
14 – Attorneys’ Eyes Only.”

15 14. In meet-and-confer discussions between myself and counsel for Defendants on
16 December 18, 2020, and on January 15, 2021, counsel for Defendants claimed that Defendants had
17 not withheld any information responsive to RFP No. 3 on the basis of privilege. On January 27,
18 2021, I asked counsel for Defendants to provide a log for the documents withheld or redacted for
19 privilege, and I explained that Plaintiff would move to compel production if Defendants refused.
20 Defendants refused to produce a log.

21 15. On January 27, 2021, I also informed counsel for Defendants that Defendants’
22 responses did not comply with the federal rules—specifically Rules 34(b)(2)(B) and 34(b)(2)(C)—
23 and I asked counsel for Defendants to serve updated responses that comply with the federal rules.
24 I explained that Plaintiff would move to compel compliant responses if Defendants refused.
25 Counsel for Defendants responded that Defendants would consider the request and respond soon.
26 To date, Defendants have neither updated their responses, nor have they agreed to do so.

27 16. On February 2, 2021, I received a letter from counsel for Defendants memorializing
28 Defendants’ understanding of the parties’ positions concerning several of Plaintiff’s RFPs. A true

1 and correct copy of relevant excerpts from that letter is attached to this declaration as **Exhibit 6**.

2 17. Attached to this declaration as **Exhibit 7** is a true and correct copy of a slide deck
3 numbered RPLI_00137882 and titled [REDACTED] This document
4 contains redactions on pages 55 and 56, which are titled [REDACTED] The redactions appear
5 to be made on the basis of privilege.

6 18. Attached to this declaration as **Exhibit 8** is a true and correct copy of a letter from
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11
12 I declare under penalty of perjury that the foregoing is true and correct.
13

14 Signed this 8th day of February, 2021, at Seattle, WA.

15 By: /s/ P. Ryan Burningham

16 P. Ryan Burningham
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CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2021, I electronically filed the foregoing document with the clerk of the Court and served counsel of record via the CM/ECF system.

/s/ P. Ryan Burningham

P. Ryan Burningham